

David L. Ball  
714 St James Road  
Newport Beach, Ca 92663  
Phone: 949-646-5507 Fax: 949-645-3214  
E Mail: dball\_111@yahoo.com

Debbie Faber  
Certified Escrow Officer  
Chicago Title  
917 Glenneyre  
Laguna Beach, Ca 92651  
Fax: 949-497-5106  
Email: [debbi.faber@ctt.com](mailto:debbi.faber@ctt.com)

RE: Escrow No. 118660047

Dear Ms Faber

During the past several weeks a number of issues have been identified surrounding the potential constraints and costs for constructing additional improvements on 104 Kings Place. The following is a list of issues that have been identified:

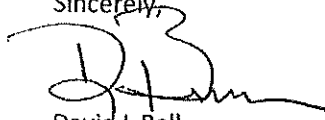
1. The newly enacted Bluff Development plan places a number of restrictions on the placement and height of improvements which may be constructed;
2. The commercial project being constructed fronting on PCH below lot 104 is requesting and will likely receive a height variance allowing an additional ~~14~~ <sup>7</sup> feet to be added to the current height constraint;
3. Newport Beach recently passed new regulations that restrict the maximum height of retaining walls to 8 feet which negatively impacts the potential for maximizing the permitted pad area;
4. The proposed increased height of the commercial project negatively impacts two story bluff line development when viewed in conjunction with the method of calculating building height for lot 104;
5. It is the desire of the City to eliminate the current sewer connection and require sewer service to be pumped to the sewer in Kings Place;
6. It appears that storm water run-off will need to be pumped to the storm drain in Kings Place;
7. The slope will require substantial reinforcement to accommodate construction to the slope limit line;
8. As a result of conversations with neighbors in the area it has been disclosed that there has been a conflict with the owner of lot 108 raising the prospects for a hostile development environment;
9. The survey disclosed that the mailbox for lot 108 is situated in the public ROW of lot 104;

10. The current chain link fence extending from the bluff top of 104 to PCH does not follow the property line;

11. The City has a new policy to allow for only one 2 car curb-cut which has the effect of severely limiting garage access and parking.

Due to these facts and others Buyer elects to terminate the escrow during the 25 day contingency period contained in paragraph 14 of the Residential Purchase Agreement. Please draw cancellation instructions for the immediate termination of escrow.

Sincerely,



David L Ball

**Burns, Marlene**

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**From:** cwunsworth@roadrunner.com  
**Sent:** Thursday, June 23, 2011 2:14 PM  
**To:** Burns, Marlene  
**Subject:** Mariners Pointe

PA2010-114

Marlene,

1. Conditions 4, 7, 9, 11, 12, 19, 30, 40, 44, 49, 73, and 86 all require review and approval by the Community Development Director. I believe the Planning Commission should review each of these to determine which, if any, should come back to Planning Commission instead of the CDD. Also, will all CDD determinations be subject to appeal by Planning Commissioners?
2. All easements, encroachment permits, and leases should be reviewed by the City Attorney's office to assure the "permanence" of the interest conveyed.
3. Throughout Conditions the terms "operator," "applicant" and "owner" are used interchangeably. With whom does the responsibility lie?
4. Re Conditions 54 and 55 - How specifically can equipment be described? It should be best technology available.

Thanks,  
Charles Unsworth

May 9, 2011

Jaime Murillo, Associate Planner  
City of Newport Beach  
3300 Newport Blvd.  
Newport Beach, CA 92658-8915

Subject: Comments on the Initial Study  
Mariner's Pointe, West Coast Highway at Dover Drive  
Newport Beach, California

As the owner of the residential property adjacent to the subject development site, this letter is submitted to state my concerns and objections in reference to this development's potential impacts to my property. I purchased my property, 100 Kings Place, which is located immediately north of the subject commercial development site years ago for its high value in terms of location and view in hopes of building a residence that, similar to my neighbors' homes, would enjoy the panoramic views of Balboa Island, Lido Isle, and the Pacific Ocean. However, upon review of the plans and per the Initial Study dated April 2011, my family and I are extremely concerned that the value of our property and quality of life would be significantly impacted by the proposed project, due to the following reasons:

1. Scenic View/Privacy: The height of the proposed two-story building and three-story parking structure, including the rotunda and cupola, would partly obstruct our views of Balboa Island, Lido Isle, and the Pacific Ocean. In addition, employees and customers parking, walking, and/or loitering on the rooftop parking structure would decrease the privacy of our backyard;
2. Aesthetics/Lighting: The rooftop parking and lights rising above the parapet walls would create an unpleasant view, with sunlight reflecting in the day through the parked cars and lights installed above the parapet wall generating night time glare;
3. Air Quality: The odor and fumes of food from the kitchen exhaust of two restaurants operating from 9:00AM to 1:00AM daily would constantly blow onto our property;
4. Native Vegetation: Aside from its unpleasant aesthetic, this project will create a significant shadow over the rear end of our property, making it nearly impossible for native vegetation and ground cover to grow and would result in an unusable area;
5. Zero Lot Variance: The developer proposes to encroach 5 feet into the 5-foot rear yard setback and build a retaining/shoring wall and 3-foot wide drainage swale on our property. Due to this we would lose 3' x 110' (330 Sq. Ft.) of our property. In addition, the retaining wall under-pining would extend about 40' to 50' into our property at 8' on center. This would limit the future development of our rear lot; and
6. Noise: There will be an increase in noise for a prolonged period of time due to the proposed project's commercial/retail uses including restaurants operating from 9:00AM until 1:00AM. Noise will originate from the restaurants' kitchens, dining patios, and bar areas, with music playing overhead and patrons talking, laughing, and yelling, especially while alcohol is being served. In addition, the noise source would

be 5 feet closer to our property due to the the proposed zero lot variance. Also, with the addition of rooftop parking, cars would be driving approximately 26 feet higher than on PCH, and furthermore the 15' wide x 140' long mechanical area located on the north end of the proposed rooftop along our property line at 35' height would significantly elevate the noise level.

As a good neighbor, I would like to offer the following suggestions:

1. The height of the building and parking structure shall be no taller than the permitted 31-foot base height limit, including any architectural features, as stated in the current zoning ordinance;
2. No roof top cars and associated structure lighting shall be exposed to the sky. A tiled roof over the parking structure (within the above stated height limit of 31') would be acceptable. This may reduce the noise, lighting, and privacy issues associated with parking as previously mentioned. Therefore, we request that the developer shall not receive a Conditional Use Permit to allow rooftop parking;
3. The restaurants' operation shall be limited to 10:00PM as most commercial businesses in the neighborhood close by then;
4. The retaining wall shall be built higher and include back fill to raise the grade to an appropriate level so the vegetation can grow to screen the noise and view of the structure and to prevent the ground cover vegetation from dying;
5. The structures shall not be built within the 5-foot rear yard setback; and
6. The current FAR of 0.3/0.5 for the project site as designated on the Zoning Map shall not be amended. This would decrease the number of cars and traffic congestion on and around the property.

I appreciate your consideration of the above. If you have any questions, you can reach me at (714) 321-2668.

Cameron Morage, Owner  
100 Kings Place  
Newport Beach, CA 92663

Correspondence

Item No. 2d

Mariner's Pointe

PA2010-114

# ORANGE COUNTY SANITATION DISTRICT

We protect public health and the environment by providing effective wastewater collection, treatment, and recycling.



April 15, 2011

RECEIVED BY  
PLANNING DEPARTMENT

APR 21 2011

Jamie Murillo, Associate Planner  
City of Newport Beach  
3300 Newport Boulevard  
Newport Beach, CA 92658

CITY OF NEWPORT BEACH

SUBJECT: Notice of Intent to Adopt Mitigated Declaration for Mariner's  
Pointe Project City of Newport Beach

Serving

Anaheim

Brea

Buena Park

Cypress

Fountain Valley

Fullerton

Garden Grove

Huntington Beach

Irvine

La Habra

La Palma

Los Alamitos

Newport Beach

Orange

Placentia

Santa Ana

Seal Beach

Stanton

Tustin

Villa Park

Yorba Linda

Costa Mesa  
Sanitary District

Midway City  
Sanitary District

Irvine Ranch  
Water District

County of Orange

This letter is in response to the above referenced Notice of Intent to Adopt Mitigated Declaration for Mariner's Pointe Project City of Newport Beach (NOI), for a project within the City of Newport Beach (City). The project site is located near the intersection of Dover and West Coast Highway, within the City.

The proposed project involves the construction of 50,274 square feet of commercial/retail space with a parking structure. The project site is within the jurisdiction of the Orange County Sanitation District (OCSD). The density of development is higher than current OCSD planning projections.

OCSD records show that this area has a sewer system that eventually connects to an OCSD sewer in West Coast Highway, near the project site. This is a 30-inch sewer that will collect the project's sanitary sewer flows. Please indicate if the project will require any modifications to city sewers, or provide corrected information about our records on the city sewers. This could be done by a figure to display how wastewater will be routed to the OCSD system. It should also be noted that OCSD anticipates the lower two floors of the parking structure may need to be connected to the sanitary sewer system. OCSD has a fee structure for these types of facilities and they should be included in the sanitary sewer flow analysis.

Also, please note that any construction dewatering operations that involve discharges to the local or regional sanitary sewer system must be permitted by OCSD prior to discharges. OCSD staff will need to review/approve the water quality of any discharges and the measures necessary to eliminate materials like sands, silts, and other regulated compounds prior to discharge to the sanitary sewer system.

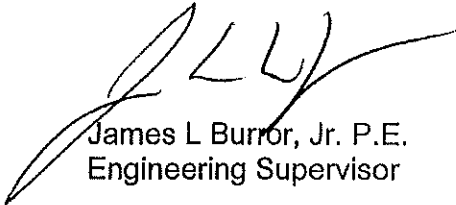


recycled paper



Jamie Murillo  
Page 2  
April 15, 2011

Thank you for the opportunity to comment on the proposed development. If you have any questions regarding sewer connection fees, please contact Wendy Smith at (714) 593-7880. For planning issues regarding this project, please contact me at (714) 593-7335.



James L. Burror, Jr. P.E.  
Engineering Supervisor

JB:sa  
EDMS:003935156/1.12a



California Cultural Resource Preservation Alliance, Inc.

P.O. Box 54132  
Irvine, CA 92619-4132

An alliance of American Indian and scientific communities working for  
the preservation of archaeological sites and other cultural resources.

RECEIVED BY

April 26, 2011

PLANNING DEPARTMENT

Jaime Murillo, Associate Planner  
City of Newport Beach  
3300 Newport Boulevard  
Newport Beach, CA 92658

APR 28 2011

CITY OF NEWPORT BEACH

Dear Jaime Murillo,

Thank you for the opportunity to review the Mitigated Negative Declaration for the Mariner's Pointe Project. We agree that the proposed project has a high probability for the presence of prehistoric cultural deposits beneath the current modern ground surface and that they may be impacted by earthmoving and demolition activities. The mitigation measures appear to be appropriate, however we would like to see a requirement that if significant cultural deposits such as intact midden or features and especially human remains are located during Phase II studies, rather than going directly to Phase III data recovery mitigation, a determination will be made as to whether preservation in place is a feasible option. This may be feasible if the cultural deposits are within areas designated for parking or landscaping. Site burial beneath parking lots and open spaces is recommended in California Public Resources Code 21083.2 (b) (3) and (4). This can also save the developer money as Phase III data recovery mitigation is labor intensive and expensive.

In addition, since the project involves a General Plan Amendment, SB 18 requires that prior to the adoption of an amendment of a city's general plan, the city conduct consultations with California Native American tribes.

Finally, the City of Newport Beach is to be commended for their diligence in addressing environmental concerns, including cultural resources. If you have any questions, please contact me at (949) 559-6490, or [p.martz@cox.net](mailto:p.martz@cox.net).

Sincerely,

Patricia Martz, Ph.D.  
President



**From:** Jack Langson  
**To:** Murillo, Jaime;  
**Subject:** Mariner's Point draft MND  
**Date:** Monday, May 09, 2011 5:56:42 PM

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Mr. Murillo,

Thank you for the opportunity to comment on the draft Mitigated Negative Declaration for the Mariner's Point project. As I understand it, City Staff is taking public comment into consideration in determining whether to recommend the currently proposed project without further mitigation and without a full EIR.

**TRAFFIC IMPACT:** It seems to me that the transportation/traffic impact has NOT been adequately mitigated to justify the requested scale of this project on such a small parcel. While the amount of traffic from this small parcel will be a tiny share of the traffic at this very busy intersection, I request that City Staff uphold the principle of adhering to the existing FAR specified in the General Plan regardless of the parcel size. Since there are 3 proposed building uses (i.e. restaurant, retail, and medical office), there apparently is no compelling need for the proposed exception to the General Plan specified FAR which will result in increased traffic at the site.

**BUILDING MASS:** The requested variance in allowable building height from the 31' existing zoning to 40' (plus 44' at the architectural cupola) will introduce a new standard for buildings so close to the highway in our neighborhood. Again, I request that City Staff adhere to the exiting zoning regulations.

**PARKING STRUCTURE STALL COUNT:** The parking structure has been "engineered" to the limit to meet the requested project size. There will definitely need to be a valet/garage traffic manager around whenever a delivery truck is parked on the ground floor given the tight turning radius of the driveway and the fact that the valet cannot take a car out to PCH to get back to the valet station due to wrong-way traffic flow. It will be interesting to see how the developer engineers the transition from the level parking stalls to the 15% grade on the ramp without scraping the bottoms of cars or encroaching on the level handicapped path of travel. Finally, counting "tandem" parking stalls as fully usable is optimistic. Hence, this awkward parking facility seems to need further review.

Again, thank you for the opportunity to have my comments considered.

Cordially,

Jack M. Langson, neighbor  
2616 Bayshore Drive

May 9, 2011

**RECEIVED BY  
PLANNING DEPARTMENT**

Jaime Murillo, Associate Planner  
City of Newport Beach  
3300 Newport Blvd.  
Newport Beach, CA 92658-8915

**MAY 09 2011**

**CITY OF NEWPORT BEACH**

Subject:       Comments on the Initial Study  
                  Mariner's Pointe, West Coast Highway at Dover Drive  
                  Newport Beach, California

As the owner of the residential property adjacent to the subject development site, this letter is submitted to state my concerns and objections in reference to this development's potential impacts to my property. I purchased my property, 100 Kings Place, which is located immediately north of the subject commercial development site years ago for its high value in terms of location and view in hopes of building a residence that, similar to my neighbors' homes, would enjoy the panoramic views of Balboa Island, Lido Isle, and the Pacific Ocean. However, upon review of the plans and per the Initial Study dated April 2011, my family and I are extremely concerned that the value of our property and quality of life would be significantly impacted by the proposed project, due to the following reasons:

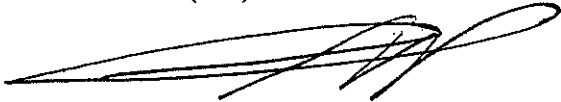
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2. No roof top cars and associated structure lighting shall be exposed to the sky. A tiled roof over the parking structure (within the above stated height limit of 31') would be acceptable. This may reduce the noise, lighting, and privacy issues associated with parking as previously mentioned. Therefore, we request that the developer shall not receive a Conditional Use Permit to allow rooftop parking;
3. The restaurants' operation shall be limited to 10:00PM as most commercial businesses in the neighborhood close by then;
4. The retaining wall shall be built higher and include back fill to raise the grade to an appropriate level so the vegetation can grow to screen the noise and view of the structure and to prevent the ground cover vegetation from dying;
5. The structures shall not be built within the 5-foot rear yard setback; and
6. The current FAR of 0.3/0.5 for the project site as designated on the Zoning Map shall not be amended. This would decrease the number of cars and traffic congestion on and around the property.

I appreciate your consideration of the above. If you have any questions, you can reach me at (714) 321-2668.



Cameron Mera, Owner  
100 Kings Place  
Newport Beach, CA 92663

**From:** [mhilford@sbcglobal.net](mailto:mhilford@sbcglobal.net)  
**To:** [Murillo, Jaime;](#)  
**cc:** [Mike Hilford;](#)  
**Subject:** Mariner's Pointe Project Variances  
**Date:** Tuesday, May 10, 2011 2:02:19 PM

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I find no mention of the Mariner's Pointe Project at the suggested website:  
<http://www.newportbeachca.gov/index.aspx?page=942> .

Developers of the project, located at 100-300 PCH, have requested some code variances that includes building height & roof-top parking that will, if approved, set a precedent and standard for all PCH buildings in this area. It would be naive to believe that the variances, if allowed, will be limited to 100-300 PCH.

For example, years ago, building height limits at 530 Kings Rd., were increased, or ignored, and now the street is lined with three & four story high-mega-houses that are incompatible with the neighborhood's scale.

Noise & commotion related to parking on these high structures, built in close proximity to many residences on Kings Rd., will negatively impact home-owner's quality of life and property values.

Therefore, I recommend the requested variances be denied.

Thank you,

Mike Hilford  
511 Kings. Rd.  
949/548-1495

## DEPARTMENT OF TRANSPORTATION

District 12  
3337 Michelson Drive, Suite 380  
Irvine, CA 92612-8894  
Tel: (949) 724-2267  
Fax: (949) 724-2592



Flex your power!  
Be energy efficient!

May 10, 2011

|                        |  |                        |              |
|------------------------|--|------------------------|--------------|
| Post-It® Fax Note 7871 |  | Date 5-10-11           | # of Pages 1 |
| To Jaime Murillo       |  | From D. DAVIS          |              |
| Co./Dept. Planning     |  | Co. CALTRANS           |              |
| Phone # (949) 644-3209 |  | Phone # (949) 440-3487 |              |
| Fax # (949) 644-3229   |  | Fax # (949) 756-4962   |              |

Jaime Murillo  
City of Newport Beach  
3300 Newport Boulevard  
Newport Beach, CA 92658

File: IGR/CEQA  
SCH#: 2011041038  
Log #: 2704  
SR-1

**Subject: Mariner's Point Project**

Dear Mr. Murillo

Thank you for the opportunity to review and comment on the **Mitigated Negative Declaration for the Mariner's Point Project**. The project proposes to demolish the existing building and construct the proposed two-story commercial/retail building and three-level parking lot. The gross square footage of the proposed project would be 23,015. The uses would consist 10,493 gross square feet of restaurants, 9,522 gross square feet of retail, and 3,000 gross square feet of medical/office. Additionally, the project would construct a three-level parking structure that would provide 136 valet and self parking stalls. The nearest State route to the project site is SR-1.

The California Department of Transportation (Department), District 12 is a commenting agency on this project and we have no comment at this time. However, in the event of any activity within the Department's right-of-way, an encroachment permit will be required.

Please continue to keep us informed of this project and any future developments, which could potentially impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Damon Davis at (949) 440-3487.

Sincerely,

Chris Herre, Branch Chief  
Local Development/Intergovernmental Review

C: Terry Roberts, Office of Planning and Research



Linda S. Adams  
Acting Secretary for  
Environmental Protection



## Department of Toxic Substances Control

Leonard E. Robinson  
Acting Director  
5796 Corporate Avenue  
Cypress, California 90630



Edmund G. Brown Jr.  
Governor

CITY OF NEWPORT BEACH

MAY 10 2011

RECEIVED BY  
PLANNING DEPARTMENT

May 6, 2011

Mr. Jaime Murillo, Associate Planner  
City of Newport Beach  
3300 Newport Boulevard  
Newport Beach, California 92658

### NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION FOR THE MARINER'S POINTE PROJECT, (SCH#2011041038), ORANGE COUNTY

Dear Mr. Murillo:

The Department of Toxic Substances Control (DTSC) has received your submitted draft Initial Study (IS) and a draft Mitigated Negative Declaration (MND) for the above-mentioned project. The following project description is stated in your document: "The project applicant proposes to construct a two-story commercial/retail building totaling 23,015 gross building square feet and a three-level parking structure totaling 50,274 gross building square feet on the 0.76-acre project site in the northwest quadrant of the intersection at Dover Drive and West Coast Highway. The development would include various commercial/retail uses such as restaurants, specialty retail and medical office. The project site is surrounded by single-family and multifamily residences to the north and south. One-story commercial buildings are adjacent to the west of the project site. East of the project site is Newport Bay and undeveloped open space to the northeast. The project site is located at the northwest corner of the intersection at Dover Drive and West Coast Highway in the City of Newport Beach. The project site consists of six legal lots. The site is currently enclosed by a chain-link fence and includes two vacant buildings on the western portion of the site and a paved surface parking lot".

Based on the review of the submitted document DTSC has the following comments:

- 1) The MND should evaluate whether conditions within the Project area may pose a threat to human health or the environment. Following are the databases of some of the regulatory agencies:

- National Priorities List (NPL): A list maintained by the United States Environmental Protection Agency (U.S.EPA).
  - Envirostor (formerly CalSites): A Database primarily used by the California Department of Toxic Substances Control, accessible through DTSC's website (see below).
  - Resource Conservation and Recovery Information System (RCRIS): A database of RCRA facilities that is maintained by U.S. EPA.
  - Comprehensive Environmental Response Compensation and Liability Information System (CERCLIS): A database of CERCLA sites that is maintained by U.S.EPA.
  - Solid Waste Information System (SWIS): A database provided by the California Integrated Waste Management Board which consists of both open as well as closed and inactive solid waste disposal facilities and transfer stations.
  - GeoTracker: A List that is maintained by Regional Water Quality Control Boards.
  - Local Counties and Cities maintain lists for hazardous substances cleanup sites and leaking underground storage tanks.
  - The United States Army Corps of Engineers, 911 Wilshire Boulevard, Los Angeles, California, 90017, (213) 452-3908, maintains a list of Formerly Used Defense Sites (FUDS).
- 2) The MND should identify the mechanism to initiate any required investigation and/or remediation for any site within the proposed Project area that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement in order to review such documents.
- 3) Any environmental investigations, sampling and/or remediation for a site should be conducted under a Workplan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment Investigations should be summarized in the document. All sampling results in which hazardous substances were found above regulatory standards should be

clearly summarized in a table. All closure, certification or remediation approval reports by regulatory agencies should be included in the MND.

- 4) If buildings, other structures, asphalt or concrete-paved surface areas are being planned to be demolished, an investigation should also be conducted for the presence of other hazardous chemicals, mercury, and asbestos containing materials (ACMs). If other hazardous chemicals, lead-based paints (LPB) or products, mercury or ACMs are identified, proper precautions should be taken during demolition activities. Additionally, the contaminants should be remediated in compliance with California environmental regulations and policies.
- 5) Future project construction may require soil excavation or filling in certain areas. Sampling may be required. If soil is contaminated, it must be properly disposed and not simply placed in another location onsite. Land Disposal Restrictions (LDRs) may be applicable to such soils. Also, if the project proposes to import soil to backfill the areas excavated, sampling should be conducted to ensure that the imported soil is free of contamination.
- 6) Human health and the environment of sensitive receptors should be protected during any construction or demolition activities. If necessary, a health risk assessment overseen and approved by the appropriate government agency should be conducted by a qualified health risk assessor to determine if there are, have been, or will be, any releases of hazardous materials that may pose a risk to human health or the environment.
- 7) If the site was used for agricultural, livestock or related activities, onsite soils and groundwater might contain pesticides, agricultural chemical, organic waste or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted under the oversight of and approved by a government agency at the site prior to construction of the project.
- 8) If it is determined that hazardous wastes are, or will be, generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). If it is determined that hazardous wastes will be generated, the facility should also obtain a United States Environmental Protection Agency Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous materials, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting your local CUPA.

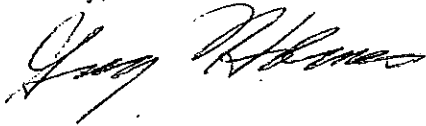


Mr. Jaime Murillo  
May 6, 2011  
Page 4

- 9) DTSC can provide cleanup oversight through an Environmental Oversight Agreement (EOA) for government agencies that are not responsible parties, or a Voluntary Cleanup Agreement (VCA) for private parties. For additional information on the EOA or VCA, please see [www.dtsc.ca.gov/SiteCleanup/Brownfields](http://www.dtsc.ca.gov/SiteCleanup/Brownfields), or contact Ms. Maryam Tasnif-Abbasi, DTSC's Voluntary Cleanup Coordinator, at (714) 484-5489.
- 10) Also, in future CEQA document, please provide your e-mail address, so DTSC can send you the comments both electronically and by mail.

If you have any questions regarding this letter, please contact Rafiq Ahmed, Project Manager, at [rahmed@dtsc.ca.gov](mailto:rahmed@dtsc.ca.gov), or by phone at (714) 484-5491.

Sincerely,



Greg Holmes  
Unit Chief  
Brownfields and Environmental Restoration Program

cc: Governor's Office of Planning and Research  
State Clearinghouse  
P.O. Box 3044  
Sacramento, California 95812-3044  
[state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

CEQA Tracking Center  
Department of Toxic Substances Control  
Office of Environmental Planning and Analysis  
P.O. Box 806  
Sacramento, California 95812  
[ADelacr1@dtsc.ca.gov](mailto:ADelacr1@dtsc.ca.gov)

CEQA # 3195

May 3, 2011

City of Newport Beach  
3300 Newport Boulevard  
Newport Beach, CA 92658

RECEIVED BY  
PLANNING DEPARTMENT

MAY 10 2011

Attention: Jaime Murillo, Associate Planner

Subject: Mariner's Pointe Project  
City of Newport Beach

CITY OF NEWPORT BEACH

Reference is made to your Notice of Intent to Adopt Mitigated Declaration for Mariner's Pointe Project, a copy of which is attached hereto. We note the City Staff has concluded that the project would not have a significant impact on the environment and therefore has recommended a negative declaration.

However, we homeowners in Newport Beach, mainly on the ocean side of Kings Road, are strongly opposed to the project as presented. It is way overbuilt for the size of the property! The existing zoning, and the requirements therein, are presently fair to the homes on the rim and to the business properties below. As far as we can tell, all other businesses along the North side of the highway have complied. Why should there be an exception in this case?

We are most concerned about the Parking Structure: massive size, way over the 31 foot height limit, parking on the roof, lights on the roof, noise from car doors shutting, horn sounds, etc. Of even more concern is the fact that the entrance and exit are close to the corner of Dover and PCH. There have been many accidents on this corner and in the vicinity thereof. The ingress and egress to the Parking Structure are in an area where three traffic lanes merge into two. Traffic going East on PCH would have to make a U-turn at the corner to enter the parking structure.

Furthermore, if you accept these radical changes to the zoning requirements for this project, you probably will set an unwanted precedent. Also, we believe such massive structures will reduce the property values of homes directly above PCH. The property in question warrants a more reasonable development which complies with existing zoning and is more compatible with the neighborhood.

HOMEOWNERS

ADDRESSES

|                         |                        |
|-------------------------|------------------------|
| <i>Stacy J. Gurling</i> | <i>711 Kings Road</i>  |
| <i>Nancy N. Gurling</i> | <i>4217 Kings Road</i> |
| <i>Evelyn Collins</i>   | <i>511 Kings Rd</i>    |
| <i>M.H. Hilford</i>     | <i>108 KINGS PLACE</i> |
| <i>Pro. Lee</i>         | <i>717 Kings Rd</i>    |
| <i>Marvin A Walker</i>  | <i>217 Kings Rd</i>    |
| <i>Helen Walker</i>     |                        |

# HOMEOWNERS

Frank Barker

Mary Barker

Carol Louise Gurr

Richard D. Gurr

C.C. Gurr

Harry DeWald

Carolyn K DeWald

Carolyn K DeWald

Ray Hill

Laura Jarboe, trustee

# ADDRESSES

811 Kings Rd.

811 Kings Rd

403 Kings Rd.

321 Kings Rd.

✓ ✓

303 KINGS RD

✓ ✓

100 Kings Road.

503 Kings Rd

104 Kings Place

## Notice of Intent to Adopt Mitigated Declaration for Mariner's Pointe Project City of Newport Beach

Notice is hereby given that the City of Newport Beach has completed a Mitigated Negative Declaration for the construction of a new commercial building at 100 - 300 West Coast Highway at the intersection of West Coast Highway and Dover Drive, Newport Beach, California. The 0.76 acre project site consists of two existing connected one-story buildings and a surface lot. The project applicant, Glenn Verdult, proposes to demolish the existing structures and pavement onsite and construct a two-story commercial structure of 23,015 gross building square feet and a three-story parking structure. The development would include various commercial/retail uses such as restaurants (10,493 sf), specialty retail (9,522 sf), and medical office (3,000 sf).

Development of the proposed project would require the following entitlements from the City of Newport Beach.

- **General Plan Amendment:** increase the allowable floor area to land area ratio (FAR) for the project site from 0.5 FAR to 0.68 FAR
- **Zoning Code Amendment:** change the specific floor area limitation for the project site on the Zoning Map from 0.3/0.5 FAR to 0.68 FAR
- **Site Development Review:** to allow the construction of a 23,015-square-foot, two-story building and a three-story parking structure that will exceed the 31-foot base height limit with a maximum height of 40 feet
- **Modification Permit:** to allow architectural feature (cupola and finial) to exceed the 40-foot maximum height limit (proposed height of 44 feet)
- **Conditional Use Permit:** to allow rooftop parking, to modify the off-street parking requirements, and to establish a parking management plan for the site
- **Variance:** to allow the building to encroach 5 feet into the 5-foot rear yard setback
- **Parcel Map:** to consolidate six lots into one parcel

On the basis of the Initial Study, City staff has concluded that the project would not have a significant impact on the environment and has therefore recommended preparation of a Mitigated Negative Declaration (MND). The MND reflects the independent judgment of City staff and recognizes project design features, previous environmental evaluations, and standard construction and engineering practices, requiring review and reevaluation of future projects as contributing to avoidance of potential impacts. The project site does not include any sites on an Environmental Protection Agency hazardous waste site list compiled pursuant to Government Code Section 65962.5.

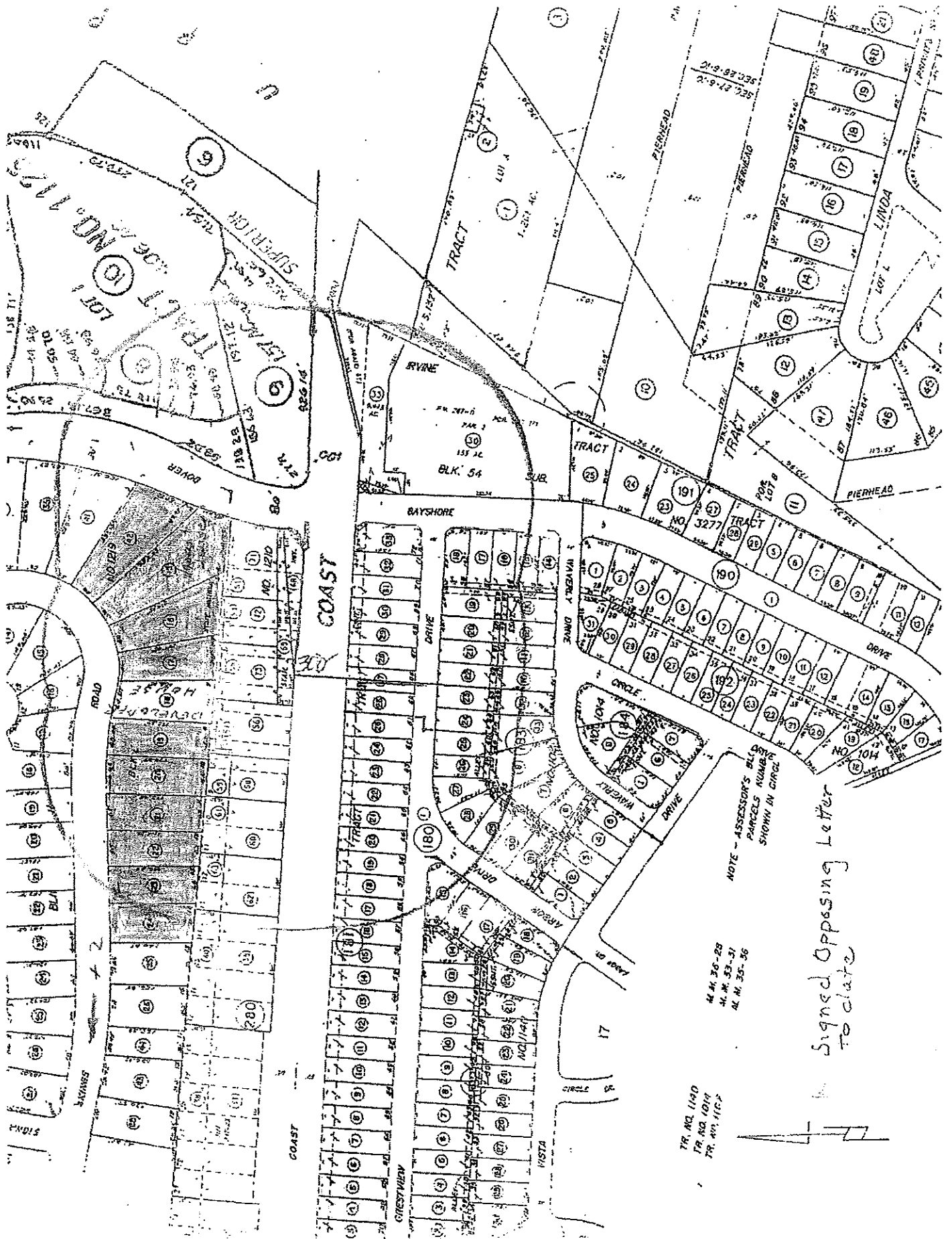
The MND is available for a 30-day public review period beginning April 11, 2011 and ending May 11, 2011. Copies of the document are available for review at 3300 Newport Boulevard, Newport Beach, CA 92658 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. The document can also be accessed online at: <http://www.newportbeachca.gov/index.aspx?page=942>. Additionally, copies of the document are also available for review at the following City public libraries:

Newport Beach Public Library  
Corona del Mar Branch  
420 Marigold Ave.  
Corona Del Mar, CA 92625

Newport Beach Public Library  
Mariners Branch  
1300 Irvine Avenue  
Newport Beach, CA 92660

Newport Beach Public Library  
Balboa Branch  
100 East Balboa Boulevard  
Newport Beach, CA 92660

Newport Beach Public Library  
Central Library  
1000 Avocado Avenue  
Newport Beach, CA 92660

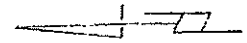


NOTE - ASSessor's BLDG  
PARCELS NUMBER  
SHOWN IN CIRCLES

M. M. 36-28  
M. M. 33-31  
M. M. 35-36

TR. NO. 1140  
TR. NO. 1014  
TR. NO. 1112

Signed Opposing Letter  
to date



Scott R. Albrecht  
Stephen S. Chang\*  
Loren A. Deters  
Matthew A. Goldstein\*\*  
Phillip W. Green  
Jeffrey S. Grider  
Megan G. Mayer  
Jeanne V. McKee  
Jennifer A. Needs  
Anat Pieter  
Herbert N. Samuels\*\*\*  
Hugh A. Sanders  
William L. Steel  
Martin J. Stein



Of Counsel  
Orlando P. Cabanday  
Ernest Mooney

\*Also admitted in Colorado  
\*\*Also admitted in Arizona  
\*\*\*Also admitted in New York and Florida

May 11, 2011

File No.: 5657-001

VIA EMAIL [JMurillo@newportbeachca.gov](mailto:JMurillo@newportbeachca.gov)  
Jaime Murillo, Associate Planner  
City of Newport Beach  
3300 Newport Boulevard  
Newport Beach, CA 92658

RE: Notice of Intent to Adopt Mitigated Negative Declaration  
for Mariner's Pointe Project

Dear Mr. Murillo:

This law firm represents Laura Tarbox, Trustee of the Frank A. Eisendrath Trust, the owner of the home at 104 Kings Place, Newport Beach ("Home"). The Home is located directly above the proposed project. The owner believes the proposed project will have a significant impact on the environment and that the proposed Mitigated Negative Declaration ("MND") is insufficient and flawed in many respects.

The owner acknowledges the Home is located adjacent to a commercial zone and that development of the subject property for commercial uses is appropriate. However, the owner believes the proposed project is too massive for the subject property and that the requested amendments to the General Plan, Zoning Code, height limits and encroachment restrictions should not be granted.

The owner's principal environmental concerns are as follows:

1. Noise.

a. Rooftop Open-Air Parking Lot. The MND at Section 3.12 admits that noise will emanate from proposed rooftop open-air parking lot from slamming doors, car alarms and beeps, horns, loud talking, etc., but the MND offers no mitigating solutions other than a statement that only autos of employees and that are valet parked will be allowed on that level, which is no solution at all because all of the same noise issues are likely to occur even with that

restriction. Also, Section 3.12 says that there are only 20 rooftop parking spaces but the plans show 47 spaces. The owner also does not believe the applicant will limit rooftop parking only to employees and valet parking. The applicant's representative, Tod Ridgeway, told the owner and me yesterday that the applicant proposes at least two alcohol serving restaurants, at least one of which will only be accessible from the rooftop parking level. It seems unlikely patrons of such a restaurant would tolerate not being allowed to park on the same level as the restaurant's entry. The proposal for open-air parking for patrons of alcohol serving restaurants located below many residences is already in practice with disastrous consequences in Crystal Cove. The exiting patrons of Javier's and Maestro's restaurants and their cars are extremely loud and insensitive to the adjacent homes, and most if not all of those homeowners hate living there.

The owner requests that the City not allow open-air rooftop parking, and that if rooftop parking is allowed that the City require it to be totally covered with appropriate noise attenuation material, and that a gate system or other access barrier be required as a condition to restaurant use that allows access to the rooftop level only by valet parking attendants and employees.

b. Restaurant Outdoor Seating Areas. The applicant's plans currently call for outdoor restaurant seating areas on the east side of the project on both the ground level and the second level, directly below the Home. The likely noise from those areas is not addressed in the MND. The owner requests that the City not allow any outdoor restaurant seating areas, and that if such seating is allowed that the City restrict the hours of access to those areas to prevent their use after 10 pm, require screening walls or other appropriate noise attenuation solutions, and prohibit any music (live or otherwise) or other amplified noise within these areas.

2. Odors.

a. Food. The applicant intends to have at least two restaurants in the project, which will require cooking facilities with appropriate rooftop ventilation. The food odors appear likely to rise directly into the residential area including the Home. The MND is silent about the likelihood of food odors emanating from the restaurants and therefore offers no mitigating solutions. The owner requests that the City require the applicant to prevent food odors from emanating into the residential area as a condition to restaurant use.

b. Cigarettes and Cigars. The applicant intends to have at least two alcohol-serving restaurants, one on each level, and both of which have proposed outdoor seating areas. It can be expected that a significant number of patrons of these restaurants will be smokers, but the MND is silent about the likelihood of cigarette and cigar smoke and odors emanating from the project, including from the outdoor seating areas, the areas between the proposed elevator and the restaurant entrances, and the proposed open-air rooftop parking lot., and therefore offers no mitigating solutions. The owner requests that the City prohibit cigarette and cigar smoking everywhere within and around the project, including without limitation in any outdoor seating areas, walkways and parking areas.

3. Light Pollution. The applicant's plans provide for many lights in the rooftop open-air parking area and glass elevator area that will be located within the parking area's southern and western boundary walls, which will be shining in the Home's direction and therefore can reasonably be expected to have a material adverse impact on the Home's nighttime environment. The owner requests that the City require the top level of parking be covered to prevent such glare and if the City does not require such cover that the City require lighting that will not be shining in the Home's direction or will shine in that direction with minimal glare.

4. Views.

a. Project's Rooftop. The Home will look down directly onto the commercial structure's rooftop. Therefore, to minimize view degradation from the Home the owner requests that the City prohibit the placement of any vents, heating and air conditioning equipment, or similar fixtures or equipment on the roof and that the City require appropriate roofing materials.

b. Cupola. The proposed cupola will be the highest point of the structure and will be about 44 feet above the ground level (not including its proposed spire, which may extend several feet above that). This requires a modification permit because it will be located above the maximum allowable height. While it does not appear that the cupola will block the Home's view of Newport Bay, it will be the most visible part of the commercial building from the Home and the spire may interfere with the Home's view of Newport Bay. Therefore, the owner requests that the City not approve a modification permit and instead require that any cupola including its spire be built within the 40 foot maximum height limit.

c. Landscaping. The applicant's renderings of the project in the MND show about 10 proposed palm trees in the front of the project along Coast Highway, all of which are shown as extending substantially above the highest points of the proposed buildings. The owner believes that the height of these palm trees as shown in the drawing will extend into the Home's view corridor of the Newport Bay and ocean, and therefore the owner requests that the City require all landscaping within the project to at no time be higher than any of the buildings within the project.

In addition to the owner's environmental concerns, the owner has these aesthetic objections:

1. Rear Wall. The applicant's representative Tod Ridgeway indicated to the owner and me yesterday that the northern boundary of the project, which will be facing the Home, will be a long and very high solid block wall (which will be over 300 feet long and about 30 feet tall. The massiveness of this wall will be very unattractive in appearance from the Home and neighboring homes, and the Owner requests that the City require that the side of this wall facing the Home have an attractive design or other covering, and/or that the applicant be required to



place tall landscaping between the wall and the Home within the applicant's property (and not within the owner's property).

2. Privacy. The applicant proposes two outdoor restaurant seating areas on the east side of the project, both of which will be located directly below the home. In addition, the rooftop elevator's doors will open directly toward the Home. It appears likely that patrons in those areas will be able to look directly into the owner's rear yard and into the Home's proposed second floor. The owner requests that the City require appropriate view screening from the outdoor seating areas and from the elevator access area so that patrons cannot see into the Home's proposed second floor or its rear yard.

3. Overall Mass. The overall mass of the project appears to the owner to be too large for the available space and will be very out of character with existing commercial uses in the area and as will have too many negative impacts on the Home and adjacent homes.

Lastly, the owner believes the project as proposed will only be possible if the applicant is able to use adjacent property, including the owner's property and property owned by adjacent homeowners, because it appears the proposed project may require encroachments into the owner's property for retaining wall footings and/or tiebacks, drainage swales and/or landscaping. The owner does not intend to grant to the applicant any easements or other rights to use the owner's property for any purpose, and the owner therefore requests that the City require the project to be located entirely within the applicant's property and that no physical encroachments occur within any adjoining properties.

Sincerely,



William L. Steel

WLS:kl

cc: Client

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